IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.3252 (MS) OF 2001

(Old No. 23170/1994)

1. Gulab Singh,
   S/o Shri Kuta Singh,
2. Hoshiyar Singh,
   S/o Shri Gulab Singh,
3. Mahabir Singh,
   S/o Shir Gulab Singh,
   All R/o Village Tipari, Patti Khas,
   Tehsil Pratap Nagar, District Tehri Garhwal.

.....Petitioners.

Versus

1. The District Judge, Tehri Garhwal.
2. The Prescribed Authority, Pratap Nagar, District-Tehri Garhwal.
3. The Collector, Tehri Garhwal.

.....Respondents.

Dated: 27.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Rajendra Dobhal, Advocate for the petitioners and Standing Counsel for respondents.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 03.12.1993 (Annexure No. 2 to the writ petition) and order dated 14.02.1994 (Annexure No. 3 to the writ petition) passed by the respondents no. 2 and 1 respectively. Further prayer has been made for a writ of mandamus directing the respondents to

restore the possession of the petitioners on plots nos. 118 area 1 Nali, Plot No. 116/1 area 11 Mutthi, Plot No. 116/2 area 6 Mutthi, Plot No. 116/3 area 1 Nali 6 Mutthi, Plot No. 116/4 area 1 Nali 15 Muthi total area 5 Nali 6 Mutthi land of Khata No. 199 of Village Tipari Patti Khas Tehsil, Pratap Nagar, District Tehri Garhwal.

Briefly stated, the proceeding under Section 4 of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act was initiated against the petitioners in respect of Plot No. 116/1 to 116/4 and 118 total area 5 Nali and 6 Mutthi. The prescribed authority has passed the order for eviction. Aggrieved by the said order, the petitioners have preferred an appeal being appeal No. 1 of 1994. The appeal was dismissed without hearing the petitioner.

In paragraph no. 7 of the writ petition, this fact has been admitted that they were not given the opportunity to put forth their case and also they were not given the opportunity to take help of any lawyer.

In view of the aforesaid, the matter is sent back to the appellate Court for deciding the appeal in accordance with law within a period of four months from the date of production of the certified copy of this order.

A writ of certiorari is issued quashing the order darted 14.02.1994 passed by the District Judge, New Tehri.

Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

27.06.2006
Rathour